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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Of Counsel
William H. DuRoss, III
Matthew L. Leibowitz

Shainis & Beltzman

Counselors at Law
Suite 200
2000 I Street, N.W.
Washington, D.C. 20036

(202) 416-1633
Fax (202) 416-1823

Aaron P. Shainis
Lee J. Beltzman

June 22, 1995

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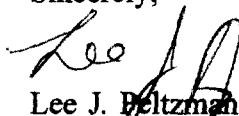
Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

Re: MM Docket No. 95-50
Counterproposal to Willcox, Arizona, Rule Making

Dear Mr. Caton:

Transmitted herewith, on behalf of Lordsburg Broadcasting Associates, is an original and four (4) copies of its Counterproposal in the above-referenced rule making. Please contact the undersigned should questions arise regarding this filing.

Sincerely,



Lee J. Beltzman
Counsel for

LORDSBURG BROADCASTING ASSOCIATES

Enclosure

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JUN 22 1995

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of

Amendment of Section 73.202(b)
FM Broadcast Stations
(Willcox, Arizona, and
Lordsburg, New Mexico)

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MM DOCKET NO. 95-50
RM-8581, _____

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To: Chief, Allocations Branch
Mass Media Bureau

COUNTERPROPOSAL

Lordsburg Broadcasting Associates ("LBA"), by its attorney, hereby submits its counterproposal in the above-captioned rule making proceeding. LBA believes that the Commission should allot Channel 285C3 to Lordsburg, New Mexico, as that community's second local transmission service. In support of its proposal, LBA states the following:

1. By Notice of Proposed Rule Making, DA 95-882, released May 1, 1995, the Commission considered the Petition for Rule Making filed by William S. Konopnicki and his proposed substitution of Channel 285C3 for Channel 252A at Willcox, Arizona, and resulting modification of Station KWCX-FM's license. However, the allotment of Channel 285C3 at Willcox will preclude the allotment of Channel 285C3 at Lordsburg, New Mexico. Aside from that conflict, the allotment of Channel 285C3 at Lordsburg can be made in compliance with the Commission's minimum distant separation rules as well as the Commission's community coverage rules. See attached Engineering Study.

2. Lordsburg is a significant community and warrants the allocation of another

broadcast station. It is the county seat and largest community located in Hidalgo County, New Mexico. According to the 1990 census report, the population of Lordsburg is 2,951 persons while the population of Hidalgo County is 5,958. Thus, Lordsburg comprises one-half the population of its county. Currently, Lordsburg has only one broadcast station (KXKK(FM)). Because of the rural nature of the area surrounding Lordsburg, LBA is desirous of providing a wide coverage area service to Lordsburg.

3. In comparing the relative needs of Willcox and Lordsburg for an additional transmission service, the Commission must utilize its comparative criteria as set forth in the Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). In that decision, the Commission adopted certain priorities to be used when comparing rule making proposals:

- (a) First full-time aural service
- (b) Second full-time aural service
- (c) First local service
- (d) Other public interest matters

[The provisions of second aural service and first local service are treated co-equally.]

4. As between the proposals, Lordsburg and Willcox, Lordsburg should receive the requested allotment. Both Lordsburg and Willcox have a local transmission service. However, whereas the petitioner seeks the substitution of channels for an existing service, LBA requests the allotment of what will be a new aural service. Clearly, the provision of new service serves a higher priority and is generally preferred over the provision of expanded service for an existing station.

We therefore take this opportunity to state our policy regarding the action to be taken when a new allotment and modification proposal

are in conflict. Generally, a modification of license to upgrade facilities to a superior channel is regarded as an increase in existing service which does not provide as great a public benefit as that of a new primary service.

Benton, Arkansas, et al., 2 FCC Rcd. 1963, 1966 (1987).

5. Therefore, the Commission will better fulfill priority (d) by allotting Channel 285C3 to the community of Lordsburg as a second local service. Moreover, when the two communities are compared, it becomes obvious that Lordsburg is a community of greater importance. As noted, Lordsburg is the seat of government and business in Hidalgo County. Therefore, it is crucial that an additional station be licensed to this underserved area.

6. Accordingly, for the reasons stated above, LBA requests that the Commission adopt this counterproposal to allot a second local service to Lordsburg, New Mexico, and deny the mutually exclusive proposal to substitute Channel 285C3 for 252A at Willcox, Arizona. In the event that the Commission allots Channel 285C3 to Lordsburg, LBA will promptly file an application for construction permit for that channel and, when granted, will immediately construct its station and commence broadcasting.

Respectfully submitted,

LORDBURG BROADCASTING ASSOCIATES

By:



Lee J. Peltzman
Its Counsel

SHAINIS & PELTZMAN
2000 L Street, N.W. - #200
Washington, D.C. 20036

June 22, 1995

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LORDSBURG BROADCASTING ASSOCIATES
BF (New) - Lordsburg, NM

PETITION FOR RULEMAKING
Engineering Statement

At the request of Lordsburg Broadcasting Associates, we have prepared this engineering statement in support of a Petition for Rulemaking which seeks FM Channel 285C3 as a new allocation to Lordsburg, New Mexico.

The center coordinates of the city of Lordsburg are specified in the Index to the National Atlas of the United States as 32°20'48"N and 108°42'36"W. The attached exhibits demonstrate that the city is fully spaced to all pertinent facilities and allocations, with the exception of a pending rule-making procedure ((RM-8581) for Willcox, Arizona, to which this petition is a counterproposal.

Respectfully submitted,

A handwritten signature in cursive script, reading "Mel Freedman". The signature is fluid and extends to the right with a long, sweeping tail.

Mel Freedman
Engineer for Lordsburg Broadcasting Associates

19 June 1995

Mr. Mel Freedman
Hughson, California

FM Spacing study

Title: Lordsburg Broadcasting Associates
Channel 285C3 (104.9 MHz)
Database: FCC 04/25/95

Latitude: 32-20-48
Longitude: 108-42-36
Safety zone: 45 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License		St FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
ALLOC			231C		32-49-30	298.7	111.8	31
Safford		AZ DOC-91-306	94.1		109-45-30	118.2	80.81	CLEAR
ALLOC			232A		32-15-05	96.5	90.31	12
Deming		NM	94.3		107-45-28	277.0	78.31	CLEAR
ALLOC			282B		31-44-19	107.3	220.5	71
Ciudad Juarez		CH	104.3		106-29-15	288.5	149.5	CLEAR
ALLOC			283A		31-32-24	149.2	104.1	48
Los Moscos		CH	104.5		108-08-50	329.5	56.08	CLEAR
ALLOC			284B		30-58-57	225.2	213.6	145
Cananea		SO	104.7		110-18-01	44.4	68.60	CLEAR
PRM	ADD	William S. Konophicki	285C3		32-14-48	263.2	90.58	153
Willcox		AZ	104.9		109-39-52	82.7	62.4	SHORT
KMVR	LIC	Rainbow Communications C	285A	3	32-18-07	91.1	179.7	142
Mesilla Park		NM BLH-6253	104.9	-9	106-48-08	272.1	37.71	CLEAR
ALLOC			285A		32-18-07	91.1	179.7	142
Mesilla Park		NM	104.9		106-48-08	272.1	37.71	CLEAR
ALLOC			285B		30-23-15	161.9	228.4	211
Nuevo Casas Grandes		CH	104.9		107-58-00	342.2	17.44	CLEAR
ALLOC			286B1		31-41-30	108.6	222.2	114
Ciudad Juarez		CH	105.1		106-29-13	289.7	108.2	CLEAR
KZLZ	LIC	Desert West Air Ranchers	287C2	50	32-49-38	287.5	182.6	56
Kearny		AZ BLH-910521KC	105.3	150	110-34-12	106.5	126.6	CLEAR
ALLOC			288B		30-22-25	203.3	237.8	71
Nacozari de Garcia		SO	105.5		109-41-28	22.8	166.8	CLEAR

>> End of channel 285C3 study <<

Mr. Mel Freedman
Hughson, California

FM Spacing study

Title: Lordsburg Broadcasting Associates
Channel 285C3 (104.9 MHz)
Database: DW 06/02/95

Latitude: 32-20-48
Longitude: 108-42-36
Safety zone: 45 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License		St FCC File no.	Freq EAH-m		Longitude	-from	(km)	(km)
KXKQ	LIC	P & M BROADCASTING INCOR	231C1	100	32-49-30	298.7	111.8	24
SAFFORD		AZ BLH-790725AF	94.1	-97	109-45-30	118.2	87.81	CLEAR
Deletion proposed; ORDERED TO 231C; Affiliated with KATO(AM)								
KDEM	LIC	LUNA COUNTY BROADCASTING	232A	3	32-15-05	96.5	90.31	12
DEMING		NM	94.3	59	107-45-28	277.0	78.31	CLEAR
Affiliated with KOTS(AM)								
XHTO-FM LIC			282B	10	31-44-18	107.3	220.4	71
CIUDAD JUAREZ		CH	104.3		106-29-17	288.5	149.4	CLEAR
ALLOC			283A		31-32-24	149.2	104.1	48
LOS MOSCOS		CH	104.5		108-08-50	329.5	56.08	CLEAR
ALLOC			284B		30-58-57	225.2	213.6	145
CANANEA		SO	104.7		110-18-01	44.4	68.60	CLEAR
PRM		PROPOSED RULE MAKING	285C3		32-14-48	263.2	90.58	153
WILLCOX		AZ DOC-95-50	104.9		109-39-52	82.7	-62.4	SHORT
PRM adopted 04/17/95, released 05/01/95; RM-8581; SITE RESTRICTION 10.1 MI E								
KMVR	LIC	RAINBOW COMMUNICATIONS C	285A	3	32-18-07	91.1	179.7	142
MESILLA PARK		NM	104.9	-9	106-48-08	272.1	37.71	CLEAR
Was KOPE 05/18/87								
ALLOC			285B		30-23-15	161.9	228.4	211
NUEVO CASAS GRANDES		CH	104.9		107-58-00	342.2	17.44	CLEAR
XHIM-FM LIC			286A	.76	31-44-18	107.3	220.5	88
CIUDAD JUAREZ		CH	105.1		106-29-13	288.5	132.5	CLEAR
KZLZ	LIC	KZLZ BROADCASTING, INC.	287C2	50	32-49-38	287.5	182.6	56
KEARNY		AZ BLH-910521KC	105.3	150	110-34-12	106.5	126.6	CLEAR
Was KCDX 05/28/93 per FCC release #205 dated 05/28/93; Ant: Shiveley 6602-12								
ALLOC			288B		30-22-25	203.3	237.8	71
NACOSARI		SO	105.5		109-41-28	22.8	166.8	CLEAR

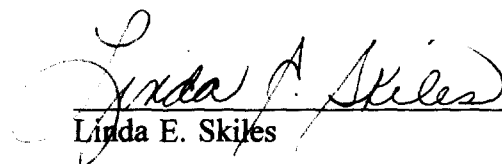
>> End of channel 285C3 study <<

CERTIFICATE OF SERVICE

I, Linda E. Skiles, Office Administrator, of the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were sent, via First Class Mail, this 22nd day of June, 1995, to the office of the following:

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Federal Communications Commission
2025 M Street, N.W. - Room 8322
Washington, D.C. 20554

Dennis Silver, P.E.
Consulting Engineer
3404 West 2640 South
West Valley City, UT 84119-1625


Linda E. Skiles